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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,312	12/23/2003	David W. Baumert	MECP108793	5575
45809 7590 11/25/2008 SHOOK, HARDY & BACON L.L.P. (c/o MICROSOFT CORPORATION) INTELLECTUAL PROPERTY DEPARTMENT 2555 GRAND BOULEVARD KANSAS CITY, MO 64108-2613				
EXAMINER				
TANG, KARIN C				
ART UNIT		PAPER NUMBER		
2451				
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11/25/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/743,312

**Applicant(s)**

BAUMERT ET AL.

**Examiner**

KAREN C. TANG

**Art Unit**

2451

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11, 13-22, 25-27 and 29-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-22, 25-27, 29-31 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

- A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.1 14, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.1 14. Applicant's submission filed on 9/17/2008 has been entered.
- Claims 1-11, 13-22, 25-27, 29-31 are presented for further examination.
- Claims 1, 13, 25, and 29 have been amended.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-11, 13-22, 25-27, 29-31 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

Claim 10 is objected to because of the following informalities: The claim is improperly depended to claim 42, where there is no claim 42.

For examining purposes, claim 10 is depending on claim 4.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1- 11 are rejected under 35 U.S.C. 101 because a according to page 9, par 0032 of the specification, a detector module, a nearby device list, and a user configuration authorization module are preferably configured as software framework. "A system" comprising a detector module, a nearby device list, and a user configuration authorization module (i.e., software) does not include any functional hardware structure of a system. A system (i.e., machine) comprising software is considered as program per se, which is not one of the categories of statutory subject matter.

Claims 25- 27 are rejected under 35 U.S.C. 101 because a according to page 9, par 0032 of the specification, a detector module, a nearby device list, and a configurable resource regulation mechanism are preferably configured as software framework. "A system" comprising a detector module, a nearby device list, and a configurable resource regulation mechanism (i.e., software) does not include any functional hardware structure of a system. A system (i.e., machine) comprising software is considered as program per se, which is not one of the categories of statutory subject matter.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8, 10, 11, 13-20, 22, 25-26, and 29-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Krzyzanowski et al., hereinafter Krzyzanowski (US 2004/0003073).

1. Referring to claim 1, Krzyzanowski discloses a system for facilitating interaction between a device and a immediate device environment, the system comprising:

a detection module for automatically detecting proximity of a participant (light, dimmer, audio system, heating units, refer to 0106) within the device immediate environment (control server is capable to detect participants within specified vicinity, refer to 0106), wherein proximity of a participant within the device immediate environment is close in physical space (a specified vicinity, refer to 0106); and

a dynamically updated list of detected nearby devices within the device immediate environment for each devices (tracks position of components/devices, refer to 0106 in a profile, refer to 0101), wherein the list of detected nearby devices maintains a record of devices detected by the detection module to be close in physical space and their locations (profile contains records of the components/devices within a specified region/close in physical space, refer to 0101 and 0102 and keep track of position of component/devices, refer to 0106 and 0111);

a user-configurable authorization module for authorizing the device to adjust a device user interface in a pre-determined manner in response to the detection of the participant (refer to 0171 and 0163).

2. Referring to claim 2, Krzyzanowski disclosed the system of claim 1, Krzyzanowski further discloses wherein the user-configurable authorization module identifies the device as one of a controlling device or a controlled device (refer to 0097).

3. Referring to claim 3, Krzyzanowski disclosed the system of claim 2, Krzyzanowski further discloses wherein the controlling device comprises shared resources for sharing with the controlled device (refer to 0067).
4. Referring to claim 4, Krzyzanowski disclosed the system of claim 1, Krzyzanowski further discloses wherein the detection module detects one of an active participant (controller client, refer to 0046) and a passive participant (components, 0106).
5. Referring to claim 5, Krzyzanowski disclosed the system of claim 4, Krzyzanowski further discloses wherein the detection module detects a passive participant (refer to 0106) and the device user interface adjusted is a detecting device user interface (refer to 0096 and control the volume level, refer to 0136).
6. Referring to claim 6, Krzyzanowski disclosed the system of claim 4, Krzyzanowski further discloses wherein the detection module detects an active participant (controller client, refer to 0046) and the user-configurable authorization module authorizes adjustment of the device user interface of a detected active participant (refer to 0133).
7. Referring to claim 7, Krzyzanowski disclosed the system of claim 1, Krzyzanowski further discloses wherein the user-configurable authorization module includes an authorization status to control another device (refer to 0136)

8. Referring to claim 8, Krzyzanowski disclosed the system of claim 1, Krzyzanowski further discloses wherein the user-configurable authorization module includes an authorization status to be controlled by another device (refer to 0048).

9. Referring to claim 10, Krzyzanowski disclosed the system of claim 2, Krzyzanowski further discloses further comprising a command and control translation module for receiving instructions from a user regarding actions to be taken by the controlling device (refer to 0145).

10. Referring to claim 11, Krzyzanowski disclosed the system of claim 10, Krzyzanowski further discloses further comprising a UI element manager for taking directions from the command and control translation module (refer to 0145).

11. Referring to claim 13, Krzyzanowski discloses a method for facilitating interaction between a device and a device immediate environment, the method comprising:

detecting a participant (light, dimmer, audio system, heating units, refer to 0106) within the device immediate environment (control server is capable to detect participants within specified vicinity, refer to 0106); and

maintaining a dynamically updated list of detected nearby devices within the device immediate environment for each devices (tracks position of components/devices, refer to 0106 in a profile, refer to 0101), wherein the list of detected nearby devices maintains a record of devices detected to be close in physical space and their locations (profile contains records of the

components/devices within a specified region/close in physical space, refer to 0101 and 0102 and keep track of position of component/devices, refer to 0106);

adjusting a device user interface based on user-configured rules set forth in a device authorization module in response to the detection of the participant (refer to 0171 and 0163).

12. Referring to claim 14, Krzyzanowski disclosed the method of claim 13, Krzyzanowski further discloses further comprising identifying the device as one of a controlling device or a controlled device using the authorization module device (refer to 0171).

13. Referring to claim 15, Krzyzanowski disclosed the method of claim 14, Krzyzanowski further discloses further comprising sharing resources from the controlling device with the controlled device (refer to 0067).

14. Referring to claim 16, Krzyzanowski disclosed the method of claim 13, Krzyzanowski further discloses further comprising detecting one of an active participant (controller client, refer to 0046) and a passive participant (components, 0106).

15. Referring to claim 17, Krzyzanowski disclosed the method of claim 13, Krzyzanowski further discloses further comprising detecting a passive participant (controller client, refer to 0046) and authorizing a detecting device to adjust the device user interface of the detecting device (refer to 0096 and control the volume level, refer to 0136).



16. Referring to claim 18, Krzyzanowski disclosed the method of claim 17, Krzyzanowski further discloses wherein the passive participant has an RFID tag (transponder, refer to 0113) and the detecting device launches an application in response to the detection of the RFID tag ().

17. Referring to claim 19, Krzyzanowski disclosed the method of claim 17, Krzyzanowski further discloses detecting an active participant, and authorizing adjustment of the active participant user interface (receive a user interface, refer to 0136).

18. Referring to claim 20, Krzyzanowski disclosed the method of claim 13, Krzyzanowski further discloses providing an authorization status as one of controlled or controlling (refer to 0144 and 0145).

19. Referring to claim 22, Krzyzanowski discloses the method of claim 14, Krzyzanowski further discloses receiving instructions from a user referring to actions to be taken by the controlling device (refer to 0145).

20. Referring to claim 25, Krzyzanowski discloses a system for sharing resources among multiple participating devices, wherein each of the multiple participating devices has a device specific set of application resources, the system comprising:

a detection module for detecting proximity of a participant (light, dimmer, audio system, heating units, refer to 0106) to a second participant device, wherein proximity of a first

participant device to a second participant device is close in physical space (control server is capable to detect participants within specified vicinity, refer to 0106); and

a dynamically updated nearby devices list of detected devices within an immediate environment (tracks position of components/devices, refer to 0106 in a profile, refer to 0101) for maintaining a record of devices detected to be close in physical space and their location (profile contains records of the components/devices within a specified region/close in physical space, refer to 0101 and 0102 and keep track of position of component/devices, refer to 0106); and

a configurable resource regulation mechanism for making the device specific application resources from the second participating device available to the first participating device (refer to 0170).

21. Referring to claim 26, Krzyzanowski discloses the system of claim 25, Krzyzanowski further discloses a user-configurable authorization module for providing each participating device with an authorization status as one of a controlled device and a controlling device ().

22. Referring to claim 29, Krzyzanowski discloses a method for facilitating resource sharing between multiple devices, the method comprising:

allowing a user to configure regulation of shared resources between multiple participating devices (refer to 0101 and 0067); and

maintaining a list of detected participating devices based on proximity within an immediate environment to a first participating device (tracks position of components/devices, refer to 0106 in a profile, refer to 0101), wherein proximity within an immediate environment is

detected to be close in physical space, wherein the list of detected participating devices maintains a record of devices detected to be close in physical space and their location (profile contains records of the components/devices within a specified region/close in physical space, refer to 0101 and 0102 and keep track of position of component/devices, refer to 0106); and

enabling regulation of device resources based on proximity of a first participating device to a second participating device (controls, refer to 0101), wherein regulation includes making device specific application resources of the first participating device available to the second participating device (refer to 0067).

23. Referring to claim 30, Krzyzanowski disclosed the method of claim 29, Krzyzanowski further discloses identifying each device as one of a controlling device and a controlled device using an authorization module (refer to 0171).

24. Referring to claim 31, Krzyzanowski disclosed the method of claim 30, Krzyzanowski further discloses sharing resources from the controlling device with the controlled device (refer to 0067).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 21 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krzyzanowski et al., hereinafter Krzyzanowski (US 2004/0003073) in view of Srinivasan et al hereinafter Srinivasan (US 2003/0037284).

25. Referring to Claims 9, 21, and 27, Krzyzanowski discloses the limitation of claims 1, 20 and 26 for the reasons above.

Krzyzanowski does not explicitly disclose that the method/system include (an arbitration mechanism for) resolving disputes between devices having an identical authorization status.

Srinivasan discloses “resolving a multiple mastership situation by retaining only one master server (refer to 0063)”.

It would have been obvious to one of ordinary skill in the art, having the teaching of Krzyzanowski and Srinivasan before them at the time the invention was made to modify the system of Krzyzanowski to include an arbitration mechanism to resolve dispute in regard to existence of multiple mastership situation as taught by Srinivasan.

One of ordinary skill in the art would have been motivated to make this modification in order to prevent communication confusion as to which controller the controlled device should respond to in view of Srinivasan.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the

references cited and the objection made. Applicant must show how the amendments avoid such references and objections. See 37 CFR 1.111(c).

Mohan et al (US 2007/0105548) "Integrated cellular/PCS-Pots communication system" disclosing a system for integrating at least one residential plan old telephone system phone to a cellular phone network.

Ostroff et al (US 6,201,968) "Method combining entries from multiple neighbor cell lists to obtain an updated list for a subscriber device" disclosing a subscriber unit operating within a radio communication system supplements neighbor list information received from a cell site, when that cell site is expected to provide inadequate neighbor cell list information.

**Examiner's Notes:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the

specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571)272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information Referring to the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Karen C Tang/

Examiner, Art Unit 2451

